

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,

v.

Criminal No. 2:19cr47

KENT MAERKI,
DAVID ALCORN,
AGHEE WILLIAM SMITH, II
TONY SCOTT SELLERS,
THOMAS L. BARNETT,
AND
NORMA JEAN COFFIN,

Defendants.

ORDER

In this Criminal Indictment, three Defendants who reside outside the district and have filed requests for waiver of their right to appear in person for arraignment. (ECF No. 36, Aghee William Smith, II; ECF No. 37, Kent Maerki; ECF No. 38, Thomas L. Barnett). Each Defendant made his initial appearance in the district of arrest and was released on unsecured bond with conditions. All three have previously been appointed counsel in this court.

Under Rule 10 of the Federal Rules of Criminal Procedure, a defendant need not be present for arraignment if he has been charged by indictment and executes a written waiver waiving his appearance, affirming receipt of a copy of the Indictment, and intends to plead not guilty. For the waiver to be effective, the court must accept it. Fed. R. Crim. P. 10(b). After reviewing

all three waivers, the court finds that the requirements of Rule 10(b) are satisfied. Defendants' signatures confirm they each received a copy of the Indictment and plead not guilty to all charges. (ECF No. 36, 37 & 38). Each waiver was signed by the Defendant and his counsel. Each also describes financial and health conditions which make travel to the district from the Defendants' home¹ burdensome or impossible without government assistance. The United States takes no position regarding the waivers. Accordingly, the court will ACCEPT all three waivers of personal appearance, however, counsel of record for each Defendant is directed to appear for the arraignment presently scheduled for May 1, 2019 at 2:30 p.m. at which time the case will be set for trial and the Defendants' pleas of not guilty entered. Further, counsel are directed to confer with their respective clients regarding the dates proffered for trial, including any position they may have regarding the complexity of the case under 18 U.S.C. § 3161(h)(7)(B)(ii and iv) or the need for setting it outside of the speedy trial deadlines fixed by 18 U.S.C. § 3161(b).

IT IS SO ORDERED.



Douglas E. Miller
United States Magistrate Judge

DOUGLAS E. MILLER
UNITED STATES MAGISTRATE JUDGE

Norfolk, Virginia
April 26, 2019

¹ Maerki resides in Arizona, Barnett and Smith both reside in California.